

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**PETITION TO MODIFY THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**

(Probation Form 49, Waiver of Hearing, is on file)

Offender Name: Brian SIMS

Docket Number: 1:05CR00003-01

Offender Address: Woodbridge, California

Judicial Officer: Honorable Anthony W. Ishii
Chief United States District Judge
Fresno, California

Original Sentence Date: 06/20/2005

Original Offense: 18 USC 2252(a)(4)(B) - Possession of Material Involving
the Sexual Exploitation of Minors
(CLASS C FELONY)

Original Sentence: 70 months custody Bureau of Prisons; 36 months Supervised
Release; \$100 Special Assessment

Special Conditions: 1) Submit to search; 2) Co-payment for treatment/testing; 3)
Computer/internet restrictions; 4) No contact with minors
without permission; 5) Computer search, examination and
agree to hardware/software installation; 6) Not possess, own,
use, view, read or frequent place involving sexually explicit
material in any form that depicts children under 18; 7)
Business/personal phone records disclosure; 8) Computer use-
notice employer; 9) Sex offender assessment/treatment; 10)
Register as a sex offender; 11) Submit to DNA testing

Type of Supervision: Supervised Release

Supervision Commenced: 10/26/2010

Assistant U.S. Attorney: Jonathan B. Conklin **Telephone:** (559) 498-7272

Defense Attorney: Melody Walcott **Telephone:** (559) 487-5561

RE: Brian SIMS
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Other Court Action: None

PETITIONING THE COURT

To modify the conditions of supervision as follows:

Special Condition Numbers 3 and 5 previously ordered on 06/20/2005, be modified to read as follows:

3. The defendant shall not possess or use a computer or any device that has access to any "on-line computer service" unless approved by the probation officer. This includes any Internet service provider, bulletin board system, or any other public or private computer network.
5. The defendant shall consent to the probation officer and/or probation service representative conducting periodic unannounced examinations of (a) any computer, or (b) computer-related device, or (c) equipment that has an internal or external modem which is in the possession or control of the defendant. The defendant consents to retrieval and copying of all data from any such computer, computer-related device, or equipment as well as any internal or external peripherals to ensure compliance with conditions. The defendant consents to removal of such computer, computer-related device, and equipment for purposes of conducting a more thorough inspection; and analysis.

The defendant consents to having installed on any computer, computer-related device, and equipment, at the defendant's expense, any hardware or software systems to monitor the use of such computer, computer-related

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device, and equipment at the direction of the probation officer, and agrees not to tamper with such hardware or software and not install or use any software programs designed to hide, alter, or delete his/her computer activities. The defendant consents to not installing new hardware without the prior approval of the probation officer.

Justification: At the time of sentencing, the Court imposed conditions prohibiting computer use. Since that time, the probation office has accumulated several programs to assist in the monitoring of computer usage. Therefore, it is requested the conditions previously ordered in 2005, be modified as recommended above, which will allow the probation officer to approve limited, specific use of a computer by the offender. Though Mr. Sims is gainfully employed, he is under employed given his skills and qualifications. Mr. Sims is involved in treatment programing with excellent feedback from the treatment provider. He is open to supervision which demonstrates his willingness to move forward in his life. He has adjusted well under supervision and in the community during this period of supervised release. These conditions will allow Mr. Sims to use the computer for job related searches as approved by the probation officer. Mr. Sims has agreed to this modification, and the signed waiver is located in the probation file.

Respectfully submitted,

/s/ George A. Vidales
GEORGE A. VIDALES
Senior United States Probation Officer
Telephone: (916) 683-3324

DATED: February 13, 2012
Elk Grove, California
GAV/cj

REVIEWED BY: /s/ Michael A. Sipe
MICHAEL A. SIPE
Supervising United States Probation Officer

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THE COURT ORDERS:

- (X) Modification approved as recommended.
- () Modification not approved at this time. Probation Officer to contact Court.
- () Other:

2/14/2012

Date

/s/ ANTHONY W. ISHII

Chief Judge United States District Court
Signature of Judicial Officer

cc: United States Probation
Jonathan B. Conklin, Assistant United States Attorney
Melody Walcott, Assistant Federal Defender
Defendant
Court File